

Land Development Code Improvement Committee Main Committee Meeting



Louisville Metro Planning & Design Services

August 6, 2013

LDC Improvement Committee

AGENDA

- INTRODUCTIONS / ANNOUNCEMENTS
- FINISH DISCUSSION ON DEVELOPMENT REVIEW PROCESS RECOMMENDATIONS
 - ITEM #31 - REQUIRING SURVEYS WITH DEVELOPMENT PLAN APPLICATIONS
- CONTINUE DISCUSSION ON MISCELLANEOUS RESEARCH RECOMMENDATIONS
- OPEN DISCUSSION
- NEXT SCHEDULED COMMITTEE MEETING
 - TUESDAY, AUGUST 20, 2013
 - 3:00 - 5:00 PM
 - METRO DEVELOPMENT CENTER
 - 444 SOUTH FIFTH STREET
 - FIRST FLOOR CONFERENCE ROOM

LDC Improvement Committee

- 15 Main Committee Members:
 - Jim King - Metro Councilperson - District 10
 - James Peden - Metro Councilperson - District 23
 - Donnie Blake - Planning Commission Chairman
 - David Proffitt - Planning Commission & Board of Zoning Adjustments Member
 - Chuck Kavanaugh - Homebuilders Association of Louisville
 - Pat Dominik - Sabak, Wilson & Lingo
 - Kathy Linares - Mindel Scott & Associates
 - Deborah Bilitski - Wyatt Tarrant & Combs
 - Barbara Sinai - Crescent Hill Community Council
 - Steve Porter - Attorney
 - Tom FitzGerald - Kentucky Resources Council
 - Teena Halbig - Floyds Fork Environmental Association
 - Kevin Dunlap - Louisville Urban League
 - Gabe Fritz - The Housing Partnership, Inc.
 - Matt Meunier - City of Jeffersontown

- Emily Liu- Interim Director of Planning & Design Services - Ex-officio member
- Jim Mims - Director of Codes and Regulations - Ex-officio member

Development Review Process Sub-committee Report

- Item #31 - Should Surveys be Required for Certain Types of Development Applications? (Deferred to 8/6/13 meeting.)
 - Continued discussion from 5/7/13 LDC Main Committee meeting.
 - What is the problem? Why should we require surveys with application submittals?
 - Should surveys only be required with certain types of development applications? Which ones?
 - Should surveys only be required for applications that will be reviewed by the Planning Commission or one of its sub-committees, or by the Board of Zoning Adjustments?

OPTIONS

1. Require surveys to be submitted with application materials for requests that meet BOTH of the following statements:
 - a) An application that is focused on a particular dimensional requirement of the Land Development Code in which a survey could insure accuracy (i.e. - building setbacks, etc.)
 - b) An application that must be acted upon by the Planning Commission or one of its sub-committees, or the Board of Zoning Adjustments.
2. Recommend PDS staff to further research this issue and implement new policy (could include further discussion at Planning Commission and/or Board of Zoning Adjustments meeting before implementation).
3. Take no action.

Miscellaneous Research Sub-committee Report

- **Item #1 - Intent Statement** (Deferred indefinitely at 7/16/13 meeting.)
 - Additional language regarding conserving environmental and historic resources and providing culturally and economically diverse neighborhoods has been added to the LDC intent statement.

- **Item #4 - Definitions of Building and Structure** (Deferred to 8/6/13 meeting.)
 - The current LDC definitions of Building and Structure indicate that these terms mean exactly the same thing and can be used interchangeably throughout the LDC. This has caused problems with building limit lines and signage. The sub-committee proposes to remove the cross-referencing sentence from each definition as shown in the staff report.
 - Building - “In these regulations reference to buildings includes structures.”
 - Structure - “In these regulations reference to buildings includes structures and vice versa.”

 - See structural exceptions on next slides.

Miscellaneous Research Sub-committee Report

- **Yard** - An open space, other than a court, on the same lot with a building, unoccupied and unobstructed from the ground upward.
- **Yard, Front** -A yard extending across the front of a lot, between the side lot lines, and being the minimum horizontal distance between the street right-of-way line and the principal building or any projections thereof other than the projections of uncovered steps, uncovered balconies or uncovered porches. On corner lots the front yard shall be considered as parallel to the street on which the lot has its least dimension.
- **Yard, Rear** -A yard extending across the rear of a lot, between the side lot lines, and being the minimum horizontal distance between the rear of the principal building or any projections thereof other than the projections of uncovered steps, uncovered balconies or uncovered porches, to the rear lot line. On all corner lots the rear yard shall be at the opposite end of the lot from the front yard.
- **Yard, Side** -An open unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.
- **Yard, Street Side** -A yard extending across the side of a corner lot between the rear line of the front yard and front line of the rear yard, and between the principal building and the street right-of-way line, and being the minimum horizontal distance between the principal building or any projections thereof other than the projections of uncovered steps, uncovered balconies or uncovered porches, to the right-of-way line.

Miscellaneous Research Sub-committee Report

▪ 5.1.7 General Requirements

- The following standards are applicable to development proposals, within all form districts.
- A. Every part of a required yard shall be open to the sky, except as authorized by this Chapter, and the ordinary projection of sills, belt courses, cornices, eaves, ornamental features and a porte-cochere or canopy which may project a distance not to exceed 18 inches into the required yard.
- B. Open or lattice-enclosed fire escapes, outside stairways, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the Building Official for a distance of not more than 5 feet, but only where the same are placed so as not to obstruct light and ventilation.
- C. Overhangs and shade control devices which prevent overheating of solar collectors may project a distance not to exceed 48 inches into the required front, rear or street side yard.
- G. Ramps intended and designed for the use of handicapped persons are allowed to encroach into any required yard in any form district as long as they are constructed in accordance with ADAAG (Americans with Disabilities Act Accessibility Guidelines) standards and the Kentucky Building Code for width, height and materials, and a building permit is issued by the appropriate permitting agency. One ramp for each entrance to the structure shall be permitted. In no case shall this section be construed to permit any other structure (e.g. deck or elevated patio) to encroach into any required yard. The sole intent of this regulation is to ensure that access to housing for handicapped or disabled persons is not impeded due to a lack of adequate ramps.

Miscellaneous Research Sub-committee Report

▪ Item #6 - Blue Line Stream Definition

- Since the United States Geological Survey does not recognize the term “blue line”, it would be appropriate to align the LDC terminology with the correct USGS terminology, which is Perennial Stream and Intermittent Stream.
- Chapter One definitions of Solid Blue Line Stream, Intermittent Blue Line Stream and Local Regulatory Conveyance Zone needed to be amended as well as portions of Sections 4.3.7, 7.8.20.B.11 & 10.2.9, as shown in the staff report.

▪ Item #7 - Manufactured Housing

- The following text amendments related to mobile homes and manufactured housing are proposed.
 - 1) Update definition of mobile home to definition suggested by the Kentucky Manufactured Housing Institute. Also, add new definition for manufactured home.
 - 2) Add clarifying language to Section 4.2.36 that allows manufactured homes and other dwellings to be located in mobile home parks.

▪ Item #8 - Roadway Definition

- The term “roadway” is used frequently throughout the Land Development Code, but lacks a definition.
- The following definition is proposed to be inserted into Chapter One of the LDC:
 - Roadway - The paved portion of a public or private street designed to carry vehicles or bicycles. Residential driveways shall not be considered a roadway.

Miscellaneous Research Sub-committee Report

▪ Item #9 - Floor Area Definition

- Permitting staff asked for further clarification regarding exactly how exterior walls are used in calculating the floor area of a building. Floor Area definition is being amended to mention the measurements are to be taken from the outside of the exterior walls.
- The reference to attics in this definition has also been changed to “finished attics” in an attempt to be more consistent with the current references to finished basements. A new definition for “Attic, Finished” is also proposed and is included in the staff report.

▪ Item #10 - Rehabilitation Home and Transitional Housing Definitions

- Additional language is proposed to further clarify that in no case can a rehabilitation home be classified as transitional housing, and vice versa.

▪ Item #11 - Residual Tract and Tract Definitions

- Since Tract and Lot are used interchangeably throughout the LDC and there is no real distinction between the two, elimination of the definition of Tract is proposed and the term Lot along with its definition will remain.
- Also, the sub-committee agrees with staff’s opinion that residual tracts of land, as they are shown on minor subdivision plats, should not have to be larger than five acres. The entire boundary of a residual lot is not required to be graphically shown on a minor subdivision plat. See amended language below.
 - ~~Tract - A parcel of land greater than 40,000 square feet in area, the deed of which was recorded in the office of the Clerk of the Jefferson County Court. See Lot.~~
 - ~~Residual Tract~~ Lot - Any portion of five acres or more of a tract lot to be subdivided which portion is not required to be surveyed.

Miscellaneous Research Sub-committee Report

▪ Item #15 - Density Calculation

- Recently it has become apparent that our current LDC does not offer clear guidance as to the use of gross acreage or net acreage when calculating the development potential of a property. PDS staff and the sub-committee have discussed this issue and agree that net density should be used rather than gross density. The added language to the section below further clarifies this decision.
 - Section 2.1.3.E - When determining the number of dwelling units allowed on a particular parcel of land, the net land area (gross land area excluding areas dedicated for public use) is divided by the minimum lot area per dwelling unit as required by the appropriate Form and Zoning District classifications. When this calculation yields a fraction of a dwelling unit, the fractional part may not be considered. (For example, a 5.1 acre or 221,400 square foot parcel, in a zone that requires a minimum lot area of 6,000 square feet per dwelling unit could accommodate 36.9 dwelling units (221,400 divided by 6,000). Thirty-six units would be allowed.)

▪ Item #16 - Appendix 3C - Waterfront Review Overlay Guidelines

- The sub-committee recommends removing the contents of the Waterfront Review Overlay Guidelines from the LDC and replacing it in this same location, Appendix 3C, with a weblink reference that will direct the user to the most current version of the WRO Guidelines. This is part of a movement to remove the full text of various LDC appendices in favor of a web address where the full text can be viewed. The following text will be added to Appendix #C.
 - The current Waterfront Review Overlay Guidelines can be found at:
<http://www.louisvilleky.gov/NR/ronlyres/7F5819D5-7FB9-4B63-9F53-B7AD0A24E0B9/0/Woverlay.pdf>

Miscellaneous Research Sub-committee Report

- **Item #17 - Lighting**

- The sub-committee recommends that Louisville Metro conduct a thorough review of Section 4.1.2 Lighting in the near future with the goal of incorporating elements of the recently produced Model Lighting Ordinance which was written by the Illuminating Engineering Society of North America.
- Furthermore the sub-committee recommends the following changes to LDC Section 4.1.2 be adopted immediately. The proposed changes involve:
 - Require fully shielded light fixtures for all luminaires that emit more than 3,500 lumens in all form districts. Currently this fully shielded fixture requirement is triggered at 7,000 lumens and only applies in the following form districts: Neighborhood, Traditional Neighborhood, Village or in a transition zone adjacent to one of the above listed form districts.
 - Remove the exemption for street lights.
 - Remove exemption for luminaires used for sign illumination.
 - Maximum illumination levels under canopies, pavilions and drive-through bays has been reduced from 70 to 50 footcandles and will apply in all form districts.
 - Light source for architectural lighting shall be shielded from view.
 - The amount of allowable light trespass has been reduced by 50%.

Miscellaneous Research Sub-committee Report

▪ Item #18 - Operating Hours

- The sub-committee proposes to add exterior construction activity and parking lot cleaning to the operating hours restrictions.
- Also, this section is being amended to be applicable within 200 feet of residentially zoned property or property that is solely used residentially, and 100 feet from mixed use developments containing ground floor residential uses.

▪ Item #19 - Non-residential Fencing Height

- The purpose of this change is to close an existing loophole. Not all zoning districts have required yards, particularly commercial and industrial properties, even though the fence height requirement listed in Section 4.4.3.A.2 below was written as if all properties will have a required yard area. The new text below addresses this issue.
 - ~~Fences and walls not located within a required yard shall be restricted by the maximum building height of that zoning district.~~ For properties in zoning districts listed in Section 4.4.3.A.1.a: Fences and walls not located within the required yard shall be restricted by the maximum building height of that zoning district. For properties in zoning districts listed in Section 4.4.3.A.1.b: All fences and walls shall be restricted by the maximum building height of that zoning district.

Miscellaneous Research Sub-committee Report

▪ Item #20 - Inactive Cemeteries Boundary & Buffer Requirement

- Related to the inactive cemeteries LDC section, the sub-committee proposes amendments to Section 4.4.6.A.4.a related to the following two items:
 - 1) Boundaries that define inactive cemeteries should also include parcel lines and historic parcel lines along with fences and walls; and
 - 2) Further clarification has been added explaining when pavement may be allowed within the required 30' cemetery perimeter buffer.

▪ Item #21 - Stream Buffer Across Property Lines & Top of Bank Determination

- The following changes are proposed for Section 4.8.3 Protected Waterways, which is the portion of the LDC that explains how the boundaries of required stream buffers are delineated.
 - 1) The amendment to the definition of perennial stream discussed in Item #6 of this report triggered the elimination of the reference to U.S.G.S maps in Section 4.8.3.A.1.
 - 2) Intermittent streams are now required to have a Type A buffer area (25') as required by this section.
 - 3) In Section 4.8.3.C.1, additional language has been added that allows the Planning Director, with input from Army Corps of Engineers, United States Geological Survey, Kentucky Division of Water, the Metropolitan Sewer District, the Natural Resources Conservation Service or other informed parties, to make a final determination as to where a certain stream "top of bank" is located.
 - 4) In Section 4.8.3.D, a new statement is being added to further explain that the stream buffer requirements of this section apply even when streams and their required parallel buffers cross property lines.

Miscellaneous Research Sub-committee Report

- Item #22 - Outdoor Amenity Public Art Fee-in-lieu Option (To be discussed at 8/20/13 meeting.)
 - The sub-committee along with Planning & Design Services staff worked with representatives of Louisville's Commission on Public Art (COPA) to revise the LDC section on the outdoor amenity public art fee-in-lieu option. The intent is to increase the opportunities in which the public art fee-in-lieu option may be utilized in association with future development proposals in the community.
 - Changes include:
 - Making the public art fee-in-lieu option available to developments in all form districts, rather than only in four select form districts.
 - This section now applies to industrial developments, in addition to retail, office and mixed-use developments.
 - The building area threshold is changing from “buildings with a total footprint greater than 100,000 square feet” to “buildings with a total building area greater than 60,000 square feet.”
 - Three options are now offered:
 - Provide only an outdoor amenity feature on site.
 - Provide an outdoor amenity feature and a public art fee-in-lieu.
 - Provide only a public art fee-in-lieu.

Miscellaneous Research Sub-committee Report

▪ Item #23 - Non-conforming Sign Replacement

- The first sentence of Section 8.1.4.B, regarding replacement of non-conforming signs, contradicts itself completely. The first part of the sentence requires a new sign that is replacing a non-conforming sign to be 100% compliant with current signage regulations. The second part of the same sentence goes on to allow a new non-conforming sign to be installed in place of the previous non-conforming sign as long as the amount of non-conformance is reduced by 50%. The sub-committee feels that non-conforming signs should be treated similar to other non-conforming items, such as buildings or land uses, and be required to come into complete compliance with current regulations upon the replacement of a non-conforming sign. Therefore, the “50% rule” is proposed to be eliminated as shown below.

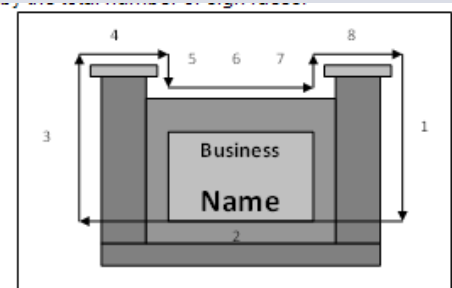
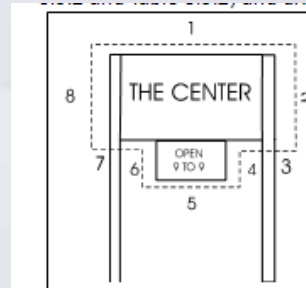
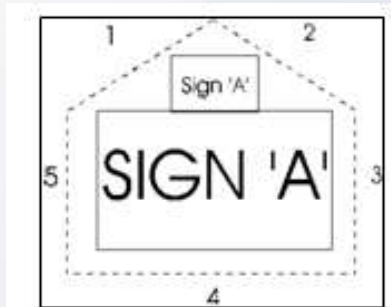
- Section 8.1.4 - At such time as any structural element of a nonconforming sign is replaced, the sign must be brought into compliance with the requirements of current regulations, ~~except that a nonconforming on-premises sign may be replaced by another nonconforming on-premises sign (exception, this provision does not apply to incidental and temporary on-premises signs), provided that all nonconformance in area, height, size, and setback is reduced by fifty percent (50%) of the difference between the existing nonconforming sign and what the regulation allows. Exception: No reduction in nonconformance shall be required for the replacement of signs, awnings, canopies and marquees that were damaged by a weather event or accident (i.e. vehicular accident) unless the damage results from neglect of maintenance or other willful act of the property owner. Replacement of structural elements in this context means the disassembly and subsequent re-assembly or the substantial alteration of the pole, base, or frame. For awnings and canopies any change to the frame shall be considered as a structural change. The replacement of material covers shall not be considered a structural change.~~

- ~~**NOTE:** The 50% compliance standard does not exempt signage from compliance with other relevant sections of this chapter (e.g. location, lighting, style, etc.).~~

Miscellaneous Research Sub-committee Report

▪ Item #24 - Sign Area Calculation

- Using our current signage area calculation method, which only allows up to five straight lines to be drawn around attached signs and eight straight lines to be drawn around free-standing signs, we are including blank spaces adjacent to the actual signs into the area calculation. This not only penalizes property owners, but it also hinders creativity in signage design. The sub-committee proposes removing the “five lines” and “eight lines” limitations from the attached and free-standing sign area calculations, respectively. As many lines as necessary should be allowed to be drawn around proposed signage in order to get a truly accurate area measurement. The diagrams below will be deleted from the LDC.



Miscellaneous Research Sub-committee Report

▪ Item #25 - Projecting Signs

- It was recently brought to the attention of PDS staff that permanent projecting banner signs are not regulated in the LDC. Chapter 155 of the Louisville Metro Code of Ordinances specifically regulates *temporary* banners, but there is a recent trend for businesses particularly in the downtown and urban areas to utilize projecting banner style signage on a permanent basis. The following text amendments are proposed to resolve this issue.

▪ New Definition for Section 1.2.2

- Projecting Banner Sign - A permanent non-illuminated double sided sign that uses a printed material fabric background for images, messages, or logos and is supported with brackets or a framework that enables it to project from the sides of a building or structure. The material or fabric background area of the sign can have a maximum width of 18" and a total supported projection of 24" from the face of a building or structure. The maximum allowable signage area for a projecting banner sign excluding the area of support brackets or framework shall not exceed 12' square feet in total area for each side of the sign.

▪ Revisions to Section 8.3.3.A.6

- Projecting Signs or Projecting Banner Signs : Buildings on lots which contain no permanent freestanding on-premises sign (other than incidental signs) may not have more than one sign which projects perpendicularly from the façade (but not the roof) of the building providing that the sign does not exceed thirty-two (32) square feet in area, does not extend below nine (9) feet above the ground or sidewalk, or more than (8) feet from the façade of the building, or closer than two feet to the abutting roadway. EXCEPTION: projecting banner signs are limited to a maximum width of 18", a total supported projection of 24", and a maximum allowable area of signage not to exceed 12' square feet in total area of each side of the projecting banner sign. The area of the projecting sign or projecting banner sign shall be part of the total allowable signage allowed on any one façade of the building as listed in Table 8.3.2. Multiple use buildings may have one projecting sign or projecting banner sign for each business, subject to the total maximum sign area permitted in Table 8.3.2. EXCEPTION: Buildings within the Downtown Form District are not restricted by the number of projecting sign limit(s) or the 32 square foot limit listed above, however these buildings are subject to the overall attached sign allowance as listed in Table 8.3.2.

Miscellaneous Research Sub-committee Report

- **Item #26 - Community Facility Reviews**

- After discussing the topic of Community Facility Reviews (CFR's), the sub-committee requests the LDC Main Committee adopt the following recommendation:
 - Request the Policies & Procedures Committee of the Planning Commission review current policies related to Community Facility Reviews, particularly how staff determines when CFR's can be reviewed at staff level and when they should receive a public meeting, which committee should review CFR's, and the notification procedures for CFR's should be reviewed.

- **Item #27 - Adult Entertainment Provisions Consistent with LMCO Chapter 111**

- The Jefferson County Attorney's Office notified PDS staff that the references to 1,000 feet in the adult entertainment regulations below should be changed to 500'. According to the County Attorney's office this particular distance requirement was changed in the Louisville Metro Code of Ordinances Chapter 111 on adult entertainment was right before merger from 1,000 feet to 500'. The change was made as a result of a lawsuit that included an analysis that showed that there were zero suitable locations at the 1,000' requirement in Jefferson County. For some reason the Land Development Code was never changed to match the revised LMCO Chapter 111. See proposed changes in staff report.

Website Information

- www.louisvilleky.gov
- Navigate to Planning & Design Services Department page
- Select Land Development Code Icon
- Select Land Development Code Improvement Committee Link

Land Development Code Improvement Committee

One of the recommendations from the Planning & Design Services audit is to update and simplify the Land Development Code. The Land Development Code (LDC) Improvement Committee consists of Louisville Metro Government staff, representatives from the development industry, representatives from neighborhood groups, as well as other organizations and citizen groups. The LDC Committee will meet regularly to discuss suggested changes to the LDC. These suggestions have been received from various interested parties and citizens throughout the community.

The LDC Committee has completed the first phase of the project that focused on minor technical changes that will improve the functionality of the LDC.

The Planning Commission recommended approval of Round One of text amendments to the Land Development Code on March 29, 2012. This recommendation is to legislative bodies with zoning authority in Louisville Metro.

[Minutes from Text Amendment Review at Planning Commission March 29](#)

Planning Committee discussion of Round One of LDC Text Amendments

[Minutes from the February 9, 2012 Planning Committee Meeting](#)

(The section of the minutes from the February 9 Planning Committee meeting that cover Round One discussion are highlighted in yellow and begin on page 4.)

Updated Committee Comment List [June 1, 2012](#)

Proposed Text Amendments [Proposed LDC Text Amendment List DRAFT](#)

<u>Meeting Date</u>	<u>Agenda</u>	<u>Meeting Summary</u>
<u>Round Two Meetings:</u>		
<u>Round Two Kick-Off Meeting Presentation</u>		
May 22, 2012	<u>agenda</u>	<u>summary</u>
<u>Round One Meetings:</u>		
January 17, 2012	<u>agenda</u>	<u>summary</u>
December 20, 2011	<u>agenda</u>	<u>summary</u>
December 6, 2011	<u>agenda</u>	<u>summary</u>
November 22, 2011	<u>agenda</u>	<u>summary</u>
November 8, 2011	<u>agenda</u>	<u>summary</u>
October 25, 2011	<u>agenda</u>	<u>summary</u>
October 11, 2011	<u>agenda</u>	<u>summary</u>
September 27, 2011	<u>agenda</u>	<u>summary</u>

Subcommittees

Subcommittees of the Land Development Code Improvement Committee have been formed to study particular sections and issues in the code. These subcommittees and meeting dates are listed below. Additional information about the work of each subcommittee will be posted as it becomes available.

All meetings will occur in the Metro Development Center, 444 S. Fifth Street.

Permitted/Conditional Use Listings Review - June 14 - 3:00 - 4:30 pm - 6th floor conference room

The following meetings will be conducted in the first floor conference room:

Form Districts - June 26 - 3:00 to 4:30 pm

Infill Development Standards - June 26, July 10, and July 24 - 9:00 to 10:30 am

Landscaping/Tree Canopy Requirements - June 25, July 9, and July 23 - 3:00 to 4:30 pm

Development Review Process - Monday, June 11th - 2:00 to 3:30 pm

Fair & Affordable Housing - Tuesday, June 12th - 9:00 to 10:30 am

Major/Minor Subdivisions - Tuesday, June 12th - 2:00 to 3:30 pm

Transportation/Mobility/Parking - Wednesday, June 13th - 10:00 to 11:30 am

Miscellaneous Research - Wednesday, June 13th - 2:00 to 3:30 pm